

January 2005

MEMORANDUM OF AGREEMENT

BETWEEN THE

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

AND THE

U.S. ENVIRONMENTAL PROTECTION AGENCY

NOS Agreement Code: MOA-2005-006/6805

I. PARTIES AND PURPOSE

- A. This Agreement is between the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA). Within NOAA's National Ocean Service (NOS), the Office of Ocean and Coastal Resource Management (OCRM) and the Coastal Services Center (CSC), will both participate in this Agreement, as well as the National Sea Grant College Program (NSGCP), which is part of the Office of Oceanic and Atmospheric Research (OAR). OCRM will coordinate NOAA's activities in support of this Agreement. Within EPA, the Office of Wetlands, Oceans, and Watersheds (OWOW) and the Office of Policy, Economics, and Innovation, Development, Community, and Environment Division (DCED) will be partners to this Agreement. DCED will coordinate EPA's activities in support of this Agreement.
- B. The purpose of this Agreement is to confirm the mutual interests between EPA and NOAA in the need for, and principles associated with, assisting state and territorial entities and local governments in the wise conservation and development of their coastal communities.

II. BACKGROUND

- A. Recognizing the various responsibilities of our state and local government partners for the basic forms of land use governance and decision making, the federal government develops and implements programs providing financial assistance, tools, techniques, education, information, and technical assistance that can be used to promote strong economies, healthy coastal ecosystems, and sustainable communities.
- B. Populations and built environments in coastal watersheds are growing rapidly, with 55-percent of the U.S. population already living within 50 miles of the coasts. The environmental impacts of development are a major issue directly affecting the ability of communities to balance natural resource protection with sustainable economic growth in their decision-making. The pressures of coastal growth also profoundly affect the ability of NOAA and EPA to achieve national goals for sustainable management of coastal resources and protection of human health and the environment. This challenge has been highlighted in the final U.S. Commission on Ocean Policy Report released on September 20, 2004, which calls for improvements in program and planning coordination to more effectively manage coastal growth.
- C. One key approach to addressing this challenge must be more integrated and coordinated partnerships between all levels of government. Independent recommendations, including the most recent from the U.S. Commission on Ocean Policy, consistently call for more effective management of the coasts (e.g., see

recommendations 9-1 and 14-11 in the final report). Our state, local, and regional governmental and NGO partners need more capacity to plan and guide growth in an integrated, comprehensive and coordinated manner towards the goal of economic and environmental progress.

- D. EPA has shown leadership in research and policy development on a wide range of growth issues. EPA has also built a high level of staff expertise on transportation, urban planning, Geographic Information System (GIS) planning tools, financing, zoning and building codes, innovative state and local land use policies, and water quality issues as they relate to development.
- E. NOAA has provided a wide variety of grants and significant technical assistance, training, policy, and management support to local decision makers in coastal states to improve their capabilities to balance growth and development with natural resource protection. NOAA also has an established staff presence at the local level in coastal states through the Sea Grant Extension Program.
- F. Combining these NOAA and EPA efforts and capabilities in a coordinated and focused manner will ensure the best and most effective use of federal resources. Our shared efforts should be joined by other federal agencies when and wherever possible. Demonstration projects, policy and legal assistance, tool development, information transfer to include coastal community planning extension, land acquisition grants for conservation purposes, and other forms of assistance are all increasingly sought by state and local government entities. The terms of this Agreement will help NOAA and EPA meet this demand and better achieve the missions of both agencies.
- G. OCRM implements the Coastal Zone Management Act of 1972, as amended, a voluntary federal-state partnership that works to protect, restore, and responsibly develop the nation's coastal communities and resources. OCRM works with state and territory partners to develop and implement comprehensive coastal plans that encourage enhanced public access to coastal areas, improved control of cumulative and secondary environmental impacts, mitigation of coastal hazards, and actions to address nonpoint source pollution. OCRM provides funding assistance, policy advice, and project reviews tailored to state-specific circumstances and based on state -- not federal -- laws. Thirty-four of the Nation's 35 eligible coastal and Great Lakes states and territories, which include over 95,000 miles of coastline, participate in the federal coastal management program.
- H. The CSC brings new ideas, information and data, technology, and training to the Nation's local and state coastal resource management programs. Working with partners from the public and private sectors, CSC helps the Nation's coastal communities resolve natural resource issues. With over 100 projects per year, the CSC operates with a client-driven, results oriented focus that is local in approach and national in scope. One of the CSC's four strategic theme areas is smart

coastal growth. CSC projects in this theme area assist states and communities in their efforts to incorporate smart growth concepts into their planning, programs and policies, and decision-making.

- I. Sea Grant is a network of 30 university-based programs that work with coastal communities in support of coastal resource use and conservation. The NSGCP engages this network of the Nation's top universities in conducting scientific research, education, training, and extension projects designed to foster science-based decisions about the use and conservation of our aquatic resources. The research and outreach programs of the NSGCP promote better understanding, conservation and use of America's coastal resources. In short, Sea Grant is "science serving America's coasts."
- J. OWOW promotes the concept of watershed management to protect and restore the water resources and aquatic ecosystems of our marine and fresh waters. This strategy is based on the premise that water quality and ecosystem problems are best solved at the watershed level and that local citizens play an integral role in achieving clean water goals.
- K. DCED of EPA's Office of Policy, Economics and Innovation works with states and communities to find ways to help them grow toward environmental and economic progress and healthy communities. DCED promotes development approaches that have clear environmental benefits, including improved air and water quality, increased wetlands preservation, more clean up and re-use of brownfield sites, and increased preservation of natural areas. DCED achieves these goals by providing tools and technical assistance that help states and communities make good decisions about how and where they want to grow.

III. AUTHORITIES

- A. The legal authorities for EPA to enter into this Agreement are:
 - 1. The Clean Air Act (42 USC § 7401 et seq.), Clean Water Act (33 USC 1251 et seq.), Safe Drinking Water Act (42 USC § 300f et seq.), and the Solid Waste Disposal Act (42 USC § 6901 et seq.) to include the goals of improving air and water quality often linked to unsustainable growth and development activities.
 - 2. Section 104(k) of the Comprehensive Environment Response, Compensation and Liability Act of 1980 (CERCLA) (42 USC § 9601 et seq.), as amended, to include assisting coastal communities assess and remediate brownfield sites.
- B. The legal and programmatic authorities for NOAA to enter into this Agreement are:
 - 1. The Coastal Zone Management Act of 1972 (CZMA) (16 USC § 1451 et seq.) authorizes the Secretary of Commerce, through the National Ocean

Service, to direct the development, implementation, evaluation, and funding of state coastal zone management programs, national estuarine reserves, and related activities under the CZMA.

2. The National Sea Grant Act (33 USC § 1121 et seq.) provides funding for research, which is the scientific basis for a network of Sea Grant Extension Agents who assist coastal communities with issues such as comprehensive land and water use planning.
3. The National Environmental Policy Act (NEPA) (33 USC § 4321 et seq.), which requires that Federal agencies cooperate in efforts to protect the environment, as well as other environmental pollution and protection laws and Presidential Executive Orders.

IV. TERMS AND CONDITIONS

- A. This Agreement establishes the general parameters of the relationship between NOAA and EPA. In general, and subject to the availability of each agency's appropriated funds, the Parties intend in the future to work together to:
 1. Promote principles that result in environmental and economic progress to coastal state and local governments through research, education, outreach, and training.
 2. Build on the individual capabilities and strengths of each agency to engage audiences and enable informed decision making on coastal community development issues.
 3. Demonstrate results through the application of tools, policies, and site-specific projects.
- B. This Agreement is not a fiscal or funds obligation document. This Agreement defines in general terms the basis on which the Parties will cooperate, and as such, may at sometime involve the transfer of funds from one Party to another. Any activities or projects involving reimbursement or contribution of funds between the Parties to this Agreement will be handled in accordance with applicable laws, regulations, and procedures. Such activities will be documented in separate Support Agreements (SAs) with specific projects between the Parties clearly described and should reference the underlying Agreement.

V. PUBLICATION AND RELEASE OF INFORMATION

- A. Both Parties will review any materials created to inform the public about this Agreement, and will not issue press releases or other public statements about the Agreement without mutual agreement.
- B. The Parties agree that the sharing of credit is mutually beneficial, and will assure that appropriate citation and attribution is given for work performed pursuant to

this Agreement. Specific uses of an agency logo or seal will require advance approval by that Party.

VI. AREAS FOR POTENTIAL COLLABORATION

- A. Training local government staff and officials on implementing principles and policies that result in well-planned, efficient growth that is good for the environment, coastal resources, and the economy.
- B. Developing a clearinghouse of sustainable community development policies, ordinances, projects, and initiatives.
- C. Providing access to teams of subject matter experts that work directly with local decision-makers on priority coastal community development issues.
- D. Utilizing available data and experiences of state partners to understand their needs and deliver products and services that directly address growth management and land use concerns.
- E. Developing a joint EPA/NOAA long-term (5-year) work plan to guide specific collaborative activities. The work plan will identify goals and objectives, authorities including assets and resources, gaps and needs, priorities, timelines and performance measures. The work plan will define specific activities and projects of mutual interest and the mechanisms for coordinating the activities including the offices and personnel of EPA and NOAA to accomplish the identified tasks if funding is available and accomplishing the tasks would be consistent with EPA and NOAA budget priorities. The work plan may be updated on a yearly basis according to identification of new priorities, interests of coastal community recipients, and agency capabilities.
- F. Providing technical assistance and sharing of information to increase the awareness and benefits of implementing sustainable development growth principles and support technology transfer through interagency capabilities or through other mechanisms such as the Nonpoint Education for Municipal Officials (NEMO) Project.
- G. Coordinating joint activities between states, communities, and EPA and NOAA field staff in order to help implement and assess alternative development scenarios at the local level.
- H. Providing policy advice and guidance to coastal communities to stimulate and leverage funds for sustainable development projects to include acquisition of tools and techniques, revisions to codes and land use planning measures inhibiting sound land use planning.
- I. Training of EPA and NOAA field staff regarding respective agencies' programs and activities and potential implementation synergies to include detailing of staff in support of cross-agency capabilities.

- J. Developing and disseminating policy and technology tools such as compilations of state and local policies and land use cover assessment tools.
- K. Integrating and coordinating information transfer which includes coastal community planning extension.
- L. Developing and supporting joint research that addresses growth patterns, cleanup and economic development in coastal or waterfront communities and sustainable community development principles, subject to each agency's policies governing competition for assistance agreements.
- M. Developing demonstration projects for priority areas in conjunction with state and local partners. These demonstration projects may include planning and training assistance, support for management tool development and use, and conducting community workshops.

VII. IMPLEMENTATION OF SUPPORT AGREEMENTS

- A. This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Parties to this Agreement will be handled in accordance with applicable laws, regulations, and procedures, and will be subject to separate support agreements hereunder that shall be affected in writing by representatives of both Parties.
- B. This Agreement in no way restricts EPA or NOAA from participating in similar activities or arrangements with other entities or federal agencies.
- C. Nothing in this Agreement shall obligate EPA or NOAA to expend appropriations or to enter into any contract or other obligations.
- D. Should EPA and NOAA decide to collaborate on a specific project or projects, one agency will be selected to serve as the lead agency. The lead agency will be responsible for all grant management, financial, and accounting services involved in awarding funds to a recipient. The other agency will be responsible for transferring its share of funds to support the project to the lead agency and any other duties as may be specified in separate support agreements under this Agreement.
- E. Projects funded pursuant to this Agreement shall be determined annually on a case-by-case basis in accordance with this Agreement, each agency's budget priorities, and as put forth in specific support agreements hereunder. Any awards shall be made pursuant to both agencies' governing authorities and will be administered in accordance with applicable laws, regulations, and procedures.
- F. Neither NOAA nor EPA may endorse the purchase or sale of products and services provided by private organizations that become partners in this effort. This Agreement does not create any right or benefit, substantive or procedural,

enforceable by law or equity against NOAA or EPA, their officers or employees, or any other person. This Agreement does not direct or apply to any person outside NOAA and EPA.

- G. Support agreements will be executed when funds are to be transferred between the Parties. Each support agreement will include the following:
1. Purpose;
 2. Organization authorities to expend or transfer funds;
 3. A detailed Statement of Work (SOW), which clearly describes the supplies or services being ordered, the quantity ordered, the unit cost per individual unit or service performed, line total (unit costs times quantity) in dollars and cents, the total amount (total of all line items), and delivery schedules, with cost breakdown;
 4. Accounting and fiscal data to include each Party's Dun and Bradstreet (DUNS) Number and Employer Identification Number. The following information is required for federal parties: OMB MAX Code, Agency Location Code, Appropriation Codes for payment and collection, type of funds and expiration date, and complete string of accounting and classification code structure;
 5. Funding, billing, and payment arrangements;
 6. Identification of individual project managers;
 7. Identification of types of contracts to be used, if any;
 8. Types and frequencies of reports required;
 9. Identification of which Party is to be responsible for government-furnished equipment, contract administration, records maintenance, rights to data, software and intellectual property, and contract audits;
 10. Procedures for amending or terminating the support agreement;
 11. Such other particulars as necessary to describe clearly the obligations of the Parties with respect to the requested goods and services; and
 12. Appropriate approval/signature blocks for each Party's respective signatory officials.

VIII. CONTACTS

- A. The contacts for coordinating activities under this Agreement are:

1. NOAA

Eldon Hout
 Director, Office of Ocean and Coastal Resource Management
 National Oceanic and Atmospheric Administration
 1305 East-West Highway
 Silver Spring, MD 20910
 Phone: (301) 713-3155 ext. 200
 Fax: (301) 713-4012
 E-mail: eldon.hout@noaa.gov

2. EPA

Geoff Anderson
Director, Development, Communities and Economies Division
U.S. Environmental Protection Agency
1301 Constitution Ave., NW (Mail Code 1807T)
Washington, DC 20460
Phone: (202) 566-2878
Fax: (202) 260-2868
E-mail: geoff.anderson@epa.gov

- B. The Parties agree that if there is a change regarding the information in this section, the Party making the change will notify the other Party in writing of such change.

IX. DURATION OF AGREEMENT, AMENDMENTS, OR TERMINATION

- A. This Agreement will become effective after execution by both Parties, whichever is later, and shall remain in effect for five (5) years.
- B. This Agreement may be amended, extended, or renewed at any time within the scope of the Agreement, through the written mutual consent of the Parties.
- C. This Agreement may be terminated by: (1) mutual written consent; (2) 90-days advance written notice by either Party; or (3) completion of the Terms and Conditions of the Agreement.
- D. The Parties will review this Agreement at a minimum of once every three years to determine whether the Agreement should be revised, renewed or terminated.

X. RESOLUTION OF DISAGREEMENTS

- A. Nothing in this Agreement is intended to conflict with current DOC, NOAA, NOS or EPA directives or applicable laws. Any such conflicting term shall be invalid, but the remainder of the Agreement shall remain in effect. If a term is deemed invalid, the Parties shall immediately review the Agreement to decide what they should do in light of the invalid term, e.g., amend or terminate the Agreement.
- B. If the Parties disagree over how to interpret this Agreement, they shall present their differences to each other in writing, and they shall discuss them. If the Parties fail to resolve their differences within 30-days, they may refer the matter to a higher level of authority within their respective organizations.

XI. APPROVALS

ACCEPTED AND APPROVED FOR THE
U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION

ACCEPTED AND APPROVED FOR THE
U.S. ENVIRONMENTAL PROTECTION
AGENCY

BY: _____
Conrad C. Lautenbacher, Jr.
Vice Admiral, U.S. Navy (Ret.)
Under Secretary of Commerce for
Oceans and Atmosphere

BY: _____
Michael O. Leavitt
EPA Administrator

DATE: _____

DATE: _____